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1 did she say to you?

2 A Basically I just told her, "We're at  
3 the Shell. You passed by us," because she said,  
4 "Where are you going? I don't see you guys" -- she  
5 just said, "I'm going to go to the next light and  
6 make a U-turn and come back. Just stay where you  
7 guys are."

8 Q Did she say she was in front of the  
9 Queens Tavern where she was expecting to pick you  
10 up?

11 A Yes.

12 Q And that's only literally maybe a  
13 couple of car lengths, a few car lengths in front  
14 of where you already were?

15 A You can't stop in the middle of the  
16 street, so -- obviously she didn't see us, so she  
17 called or I called. Basically conversation was,  
18 "You just drove past us." She said, "I don't see  
19 you guys. I'll go to the next light and make a  
20 U-turn and come back and pick you up."

21 Q You never made any suggestion, "Wait  
22 there for a second. We're going to be there in ten  
23 seconds"?

24 A No. She said, "I'm going to go to the  
25 next light, make a U-turn and come back."

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1 Q And is it fair to say there was no  
2 disagreement about that plan, you just allowed her  
3 to do it?

4 A Yeah.

5 Q Were you still on the cell phone when  
6 the police officers pulled up?

7 A Yes.

8 Q Who was the first one to speak between  
9 you and the police at that point?

10 A I crossed the street. As I started  
11 walking a couple steps, I heard a car peel out; and  
12 the police officers pulled out of the Shell  
13 Station, made a quick turn and started walking by  
14 my side down Easton Avenue.

15 Q Okay. When you say you heard a car  
16 peel out, you said you heard a car peel out, is it  
17 fair to say you don't know which car made the  
18 squealing noise of the tires?

19 A That would be possible, yes.

20 Q But anyway, you heard the screeching  
21 of tires; and the next thing you know is a patrol  
22 car is --

23 A Turn around, the police I seen coming;  
24 and as I'm walking, they came up by my side.

25 Q So you didn't see the car that made

1 the squeal; but when you heard the squeal, that  
2 turned your head backwards towards the direction of  
3 the squeal --

4 A Yes.

5 Q -- the squealing tires?

6 A Yes.

7 Q And that's when you saw a patrol car  
8 turning around?

9 A Yes.

10 Q Making a U-turn, in effect?

11 A Just making -- pulling out, made a  
12 U-turn.

13 Q Were you watching the patrol car as it  
14 then came right up to your position?

15 A At that time, that's when I started  
16 dialing my phone. My wife called -- I don't  
17 remember who called first, and I was talking to  
18 her; and as I was walking and talking, the police  
19 car, patrol car was by my side, basically at my  
20 waist. The window was by my waist as I was talking  
21 on the phone.

22 Q And who was the first one to speak  
23 then?

24 A I stopped once my wife said, "Stay  
25 where you guys are," so I literally stopped and

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1 tell the guys, "Let's cross back and wait for them.  
2 We'll wait in the station."

3 I didn't get that far. As soon as I  
4 stopped, patrol car stopped by my side, and I just  
5 had my head leaning forward and said, "Is there a  
6 problem, Officer?"

7 Q Okay. So you had actually finished  
8 your conversation and then talked to the members of  
9 your group about what the plan was, which is, "My  
10 wife's making a U-turn. She's going to wait on the  
11 opposite side of the street" before you had any  
12 conversation with the cops. Is that right?

13 A No.

14 Q That's not right?

15 A No. I hung up the phone; and I was  
16 going to turn around and say, "Hey, guys, we have  
17 to cross again."

18 Q But you didn't get that opportunity?

19 A Exactly, because as soon as I stopped,  
20 they stopped. I -- basically when my wife said  
21 that, I stopped walking. As I stopped walking,  
22 they stopped right by my side, and I said, "Okay.  
23 We'll," you know, "I'll meet you over there." I  
24 believe she said, "Wait in the Shell for me. I'll  
25 meet you back at the Shell."

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1 At that point, I stopped. Once she said she  
2 was going to make a U-turn, I stopped walking.  
3 They stopped. They stopped -- finished hanging up  
4 with her, hung up, with my hand put the phone by my  
5 side; and they had the window rolled down and I  
6 said, "Is there a problem, Officer?"  
7 Q When you say you put the phone on your  
8 side, you have a buckle like you have here today  
9 that you keep your cell phone in?  
10 A Yes.  
11 Q And that's the same kind of thing you  
12 had on the date in question?  
13 A The other one was plastic, and it  
14 snapped on.  
15 Q Same kind of a deal though?  
16 A Correct, sir, same position.  
17 Q So therefore you had -- you didn't  
18 mention anything about the plan was -- to the guys  
19 that was your plan to talk about them -- about what  
20 you were going to do now to meet up with your wife.  
21 That's when the cop said something?  
22 A Correct.  
23 Q Who was the first one to talk, you?  
24 A Yes, sir.  
25 Q And you said, "Is there a problem,

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1 Officer?"  
2 A Correct.  
3 Q And what was the response?  
4 A They said, "Do yourself a favor. Do  
5 yourself a favor," you know, "Get the fuck out of  
6 here," and then at the same time my response was,  
7 "I'm just waiting for a ride. It's a free country.  
8 I'm just waiting for a ride. I don't want any  
9 problems." Their response was, "If you want a  
10 problem, we're going to cause a problem," and I  
11 said, "Listen. I'm just waiting for a ride."  
12 MR. STONE: Could I just interject one  
13 thing?  
14 You keep saying "they." If they spoke  
15 unison, in stereo, that's okay.  
16 MR. CONNELL: I'm going to get to  
17 that, Mike.  
18 MR. STONE: Okay. Never mind. He'll  
19 take care of it.  
20 BY MR. CONNELL:  
21 Q The first thing that was said, "Do  
22 yourself a favor. Get the fuck out of the here,"  
23 that was said by a cop?  
24 A Yes.  
25 MR. SPAGNOLA: He said the first thing

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1 was he said, "Is there a problem" --  
2 BY MR. CONNELL:  
3 Q The first thing said by a cop was, "Do  
4 yourself a favor. Get the fuck out of here,"  
5 correct?  
6 A Yes.  
7 Q And that was in response to you asking  
8 the officer, "Is there a problem, Officer?"  
9 A Yes.  
10 Q And the passenger's side of the  
11 vehicle was facing you at that point?  
12 A Yes.  
13 Q And do you know what officer it is  
14 that said, "Do yourself a favor and get the fuck  
15 out of here?"  
16 A It was Yurkovic.  
17 Q He would have spoken across the  
18 officer that was closest to you?  
19 A Yes.  
20 Q And then you said, "I'm just waiting  
21 for a ride. It's a free country," and what else?  
22 A And "I don't want any problems."  
23 Q And the officer responded to your  
24 statement by stating, "If you want a problem, we'll  
25 give you a problem"?

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1 A "We're going to cause a problem,"  
2 something like that, yes.  
3 Q "If you want a problem, we're going to  
4 cause a problem" is what he said?  
5 A Yes, "We're going cause a problem" or  
6 "We're going to make a problem," something to that  
7 effect.  
8 Q "If you want a problem, we'll make a  
9 problem," something of that nature?  
10 A Something, "make" or "cause," yes.  
11 Q And what happened next?  
12 A Again, I said, "I'm" --  
13 Q By the way, was that Police Officer  
14 Yurkovic again or was that Oels?  
15 A They both were talking. I want to say  
16 that was Yurkovic then also because they're --  
17 Q At this point you haven't said that  
18 Oels has said anything yet.  
19 A They're looking at each other and  
20 they're pretty much agreeing on, you know, what's  
21 happening, so they're saying, you know, "If you  
22 want a problem" -- pretty much they looked at each  
23 other, and that's their response to me.  
24 I don't remember if it was Oels or Yurkovic  
25 who said that physical word to me, so I strike

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1 that. I don't know which one it was.  
 2 Q So the first statement, "Do yourself a  
 3 favor. Get the fuck out of here," you remember  
 4 that was Yurkovic in response to "Is there a  
 5 problem, Officer?"  
 6 A Correct.  
 7 Q Then you responded in words which  
 8 include "This is a free country," and then one of  
 9 the two officers, you don't remember who, said, "If  
 10 you want a problem, we will make a problem?"  
 11 A Yes.  
 12 Q Is that fair?  
 13 A Yes.  
 14 Q Did you have a response to that  
 15 statement?  
 16 A Again, "I'm just waiting for my ride."  
 17 Q Did you include in that "I'm just  
 18 waiting for my ride," "My wife is ready to pull up"  
 19 or "My wife is right behind us" or "We'll be out of  
 20 here in one second," anything of that nature to  
 21 give them a sense of "We're going to be out of here  
 22 in matter of seconds"?  
 23 A I did say that to them. I don't know  
 24 if that was done instantly or once they got out of  
 25 the car. I do remember saying, "My wife is down

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1 the street and she's picking us up."  
 2 Q Okay. And you don't remember when  
 3 that statement was made?  
 4 A I did say it. I don't know if it was  
 5 made while they were in the car or at the side of  
 6 the car, and I did say that we were "waiting for my  
 7 wife. She's just down the street."  
 8 Q When you said, "I'm waiting for my  
 9 ride," do you remember that the officers then  
 10 stopped their vehicle at that point, or were they  
 11 talking to you while the vehicle was still running?  
 12 A You know, moving along --  
 13 Q Let me strike the question.  
 14 I know you told us that you basically  
 15 stopped when you were talking with your wife. You  
 16 saw the cop car was coming around, that you stopped  
 17 and you were preparing to make the comment to the  
 18 guys about "She's making a U-turn. We'll go across  
 19 the street to rendezvous with her." You never got  
 20 those words out, and that's when the cop car pulled  
 21 up and began to speak with you, right?  
 22 A For the most part. When I crossed the  
 23 street, I said -- I started walking. As I started  
 24 walking, I heard the car turn around. I turned  
 25 around, and they came up to my side.

1 Q But you were --  
 2 A I was walking and then came to a point  
 3 where I stopped walking while I was still on the  
 4 phone with my wife because when she said, "I'll  
 5 just meet you," so there's no sense of me continue  
 6 walking when she's coming.  
 7 Q Were any of these statements while the  
 8 officer's car was moving and you were moving?  
 9 A Once I stopped, I'm standing still.  
 10 I'm talking to my wife. They stopped by my side,  
 11 and I was talking to my wife.  
 12 Q Go ahead.  
 13 A I finished talking to my wife. I'm  
 14 standing still. They are next to me right here.  
 15 I'm talking on the phone to my wife. "Okay. Fine.  
 16 We'll walk back to the station" or whatever, and  
 17 that's it.  
 18 I hung up the phone, but they've been  
 19 sitting there for however long the conversation  
 20 was. Hung up the phone, put it on my waist and  
 21 they were standing there, so I nicely said, "Is  
 22 there a problem, officers?" and that was it. So  
 23 they stopped before -- basically in sync with me.  
 24 I stopped, they stopped.  
 25 Q The point is that whole series of

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1 discussions was made when you were standing still  
 2 and the car was standing still?  
 3 A Correct.  
 4 Q And while you were still standing  
 5 still, you didn't continue to walk in any  
 6 direction, and that's when the officers got out of  
 7 the car?  
 8 A Yes.  
 9 Q And did you see whether they both got  
 10 out of the car at the same time? Did you notice  
 11 that?  
 12 A Yes. They both looked at each other.  
 13 They nodded their heads to each other, and they  
 14 both opened the door at the same time.  
 15 Q And you were still in the street?  
 16 A Yes, sir.  
 17 Q How far would you say you were from  
 18 the curb?  
 19 A If there was a car there, I would be  
 20 by the car. If there wasn't a car, I would be by  
 21 the curb.  
 22 Q Well, do you remember what position  
 23 that the police vehicle was in on the roadway? Do  
 24 you know whether or not it was completely within  
 25 the travel lane of Easton Avenue in the direction

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1 it was going, or was it over the double yellow line  
2 on that roadway? Do you remember when it came to a  
3 stop?  
4 A No. It would have been just on the  
5 side -- not on the legal -- legally facing -- it  
6 wasn't on the yellow. It was in the regular  
7 position.  
8 Q We're going to refer to P-1 now. You  
9 can see the "X" that you drew on that diagram. You  
10 can also see the double yellow line dividing the  
11 two directions of travel.  
12 A Correct.  
13 Q And looking at that photo P-1, could  
14 you tell whether or not when the car had stopped,  
15 and I'm talking about now the patrol car, whether  
16 it was totally within the lane in the direction  
17 that it was going, or do you know whether or not it  
18 was like the left wheels were over the double line?  
19 A No.  
20 Q Do you remember?  
21 A It would have been in the lane.  
22 Q It was still in the lane?  
23 A Yes.  
24 Q Do you remember at that point, when  
25 you began to have this interchange with the

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1 officers and it had stopped in that position,  
2 whether anyone else was in the street other than  
3 you?  
4 Before the cops got out of the car, was  
5 anybody in your group still in the street other  
6 than you?  
7 A I believe everybody at that point was  
8 behind me. Romain might have been next to me  
9 still.  
10 Q So if there was anybody else in the  
11 street other than you, it would have been Romain?  
12 A Yeah.  
13 Q Everybody else was on the sidewalk?  
14 A Yes.  
15 Q When the officers got out of the  
16 patrol car, did you remain in that same position?  
17 A Same spot?  
18 Q Same spot.  
19 A Yes.  
20 Q And did both officers approach you or  
21 did only one?  
22 A Well, I was pretty much in front of  
23 Oels, so he came out. I was in front of him.  
24 Q Did they close the patrol car door,  
25 Oels, that would have been closest to you?

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1 A I believe so, yes.  
2 Q And Oels was the first one to speak to  
3 you?  
4 A Yes.  
5 Q What did Oels say to you?  
6 A Yurkovic walked around and then --  
7 Q Just listen to my question. You said  
8 Oels was the one who approached you. Did he speak  
9 to you?  
10 A One of the them asked me for my  
11 license.  
12 Q You don't know which one it was?  
13 A No. I want to say it was Yurkovic  
14 though because I handed him the license.  
15 Q Okay. So therefore as Oels approached  
16 you, Yurkovic also would have gone around the  
17 patrol car and gotten into your position?  
18 A Yes.  
19 Q And do you know whether or not you  
20 were now between the two officers?  
21 A I believe so, yes. I was in front of  
22 him, and Yurkovic would have been on my right.  
23 Q On your right as you're facing the  
24 patrol car?  
25 A Both of them facing me, yes. So their

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1 backs are to the car and I'm facing the car.  
2 Q Therefore Yurkovic would have had to  
3 come around the front of that patrol car to get to  
4 that position?  
5 A Correct.  
6 Q And do you remember that it was  
7 Yurkovic who asked for your ID?  
8 A I don't remember if it was him, but he  
9 is the one that took it so, yes, he asked me for my  
10 license or ID, license.  
11 Q And when you gave him your license,  
12 did you give him anything else?  
13 A No, my driver's license only.  
14 Q There was nothing underneath it?  
15 There was no other document that you handed with  
16 the driver's license. Is that right?  
17 A At that point it was only my license.  
18 Q That's what I mean, at this point.  
19 A Exactly.  
20 Q Do you remember -- and you gave it to  
21 Yurkovic, and it looked like Yurkovic was looking  
22 at it?  
23 A Yes.  
24 Q And was there any remark passed while  
25 he was looking at it?



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1 A He said something to me.

2 Q What did he say?

3 A He said, "This is not fucking

4 Flemington. I'll call 20 cops to plummet your face

5 into the ground."

6 Q Now, you would agree with me that you

7 said nothing to insight the officer to use that

8 kind of language against you. Is that fair?

9 A Yes, sir.

10 Q And there was nothing about the

11 document that you gave him that would have set him

12 off other than what you're saying is "This is not

13 Flemington." Is that right?

14 A That's why I was talking earlier,

15 possibly my name. That's why I got that

16 perception.

17 Q That's when this bias thing was in

18 your head?

19 A Yes, sir.

20 Q And when he said this to you, did he

21 say it loud enough for anybody else in the group to

22 hear?

23 A Yes.

24 Q And have you since learned that other

25 people heard that remark?

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1 A To that effect, yes.

2 Q And did he say it loud enough for Oels

3 to hear him?

4 A He was standing next to Oels, so yes.

5 Q And we don't know whether or not Oels

6 actually heard it, but it appeared to you to be

7 loud enough for Oels to hear it. Is that fair?

8 A Yes.

9 Q And what next was said or done?

10 A He said -- my response to him was,

11 "For what, waiting for a ride?"

12 Q And that was a remark that you made in

13 the direction of Yurkovic?

14 A Yes.

15 Q And was there a response?

16 A In sync they both said -- Yurkovic and

17 Oels said, "We write the report."

18 MS. O'CONNOR: "We write the report?"

19 MR. CONNELL: "We write the report."

20 THE WITNESS: Yes, "We write the

21 report."

22 BY MR. CONNELL:

23 Q Does that make any sense to you in the

24 English language, "We write the report?" Do you

25 know what that means?

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1 MR. KOBIN: I'm just -- objection.

2 Q I'm asking do you know what that

3 means?

4 MR. KOBIN: Objection to the form of

5 the question.

6 A Yeah. They have a police report --

7 Q Let me withdraw the question.

8 Did you understand when it said, "We write

9 the report," what was meant by that?

10 A Yes. They write the police report.

11 That's how I interpreted it.

12 Q Okay. All right. And then what

13 happens?

14 A Yurkovic reached over his shoulder.

15 On his left shoulder he had a little walkie-talkie.

16 He started paging in it, in his walkie-talkie.

17 Q Did you hear what he said?

18 A No. He was saying -- just codes and

19 stuff. I don't know what he said specifically.

20 Q They were numbered codes without using

21 any English language?

22 A I believe, correct.

23 Q Other than the codes, he's giving

24 numbers --

25 A Numbers, yeah, 45 -- I don't know, but

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1 numbers, numbers and codes.

2 Q What next happened?

3 A At that point, we sat there.

4 Q You basically stood there?

5 A Stood there, I apologize.

6 A minute or two, a police car pulled up from

7 behind Yurkovic's car and Oels, and a police car

8 pulled up from in front of -- in front of their

9 car.

10 Q Facing their patrol car?

11 A Facing, so one from behind and one

12 facing the car.

13 Q The first one was behind, the second

14 one within moments was in front?

15 A Yes, or either way. I don't know,

16 but -- I don't remember which one was first, but

17 they both pulled up, one from behind, one from in

18 front.

19 Q Do you know how many officers were in

20 the car that was behind?

21 A It was two, one or two behind, and two

22 in the front because I paid more attention to the

23 front.

24 Q You're not sure whether or not there

25 was one in the back car?

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1 A Yes, one or two. I don't recall.  
 2 Q Can you identify any of those police  
 3 officers by race or size or anything like that that  
 4 was in the car that was behind the Yurkovic patrol  
 5 car?  
 6 A Yes, it was a black officer.  
 7 Q And can you tell us the size of that  
 8 black officer?  
 9 A Maybe he was five-six, five-eight.  
 10 Q Approximately how much did he weigh,  
 11 medium build, heavy build, something --  
 12 A Medium build.  
 13 Q Did it appear that he had any rank,  
 14 any stripes on his sleeves or anything like that?  
 15 A I did not notice.  
 16 Q In uniform?  
 17 A Yes.  
 18 Q And it was a marked unit?  
 19 A Yes, marked car.  
 20 Q And now the car that had pulled up  
 21 face-on with the Yurkovic car, there were two  
 22 officers in that?  
 23 A Correct.  
 24 Q And can you describe them?  
 25 A I don't remember the drivers. I

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1 remember the passenger because he came out and I  
 2 assume he was a high, you know, higher than the  
 3 other guys.  
 4 Q Meaning taller?  
 5 A Well, he was taller, but I mean  
 6 rank-wise.  
 7 Q He was tall rank-wise?  
 8 A He was a tall officer, and he came out  
 9 and he walked up with Yurkovic.  
 10 Q Do you know whether or not he was  
 11 white or black?  
 12 A He was white.  
 13 Q What makes you think that he was a  
 14 higher rank?  
 15 A Well, he was talking to Yurkovic.  
 16 They were talking back and forth, and then I don't  
 17 know what happened. All of a sudden I heard him  
 18 say, "You brought us here for this?" and then he  
 19 starts walking backwards, stepping backwards, the  
 20 tall officer, away from Yurkovic; and he says,  
 21 "There's no reason for us to be here, but teach  
 22 that mother fucker a lesson and give him a \$200  
 23 fine."  
 24 Q So the taller officer, who was the  
 25 white officer that you had the impression was a

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1 higher rank, took Yurkovic to the side but still in  
 2 a distance where you could overhear what he was  
 3 saying?  
 4 A I'm standing by the front of the car.  
 5 Yurkovic is on the opposite side now across.  
 6 Q He took him away from you but at a  
 7 distance where you could still hear what was going  
 8 on?  
 9 A Yes.  
 10 Q And this officer said to him, "I don't  
 11 know why we're here?"  
 12 A Yes, something to that effect, "I  
 13 don't know why we're here." I believe it was, "I  
 14 don't know why you have us here."  
 15 Q "But teach that MF" --  
 16 A Yes, sir.  
 17 Q -- "a lesson" --  
 18 A Yes.  
 19 Q -- "and give him a \$200 fine?"  
 20 A He's saying that as he's walking  
 21 backwards to the car. At that point -- they came.  
 22 There was no real reason for them to come, and at  
 23 that point they -- both cars started to leave.  
 24 So as he was walking back to his car, he's  
 25 taking a couple steps backwards. I heard him yell

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1 to Yurkovic, yell that comment to Yurkovic as he  
 2 was walking back to his car.  
 3 Q Did you see any very large black  
 4 police officer at the scene at this time, much  
 5 bigger than you and me?  
 6 A There was that officer there; but  
 7 again I don't know -- I described the guy. Again,  
 8 I don't remember specific size.  
 9 Q Well, the only black officer that you  
 10 described is a guy five-six to five-eight with a  
 11 medium build. I'm talking about a guy six-two to  
 12 six-four that weighs nearly 300 pounds. Did you  
 13 see anybody like that?  
 14 A I don't recall. I wasn't  
 15 concentrating on that. I was concentrating on what  
 16 was happening with Yurkovic and the tall police  
 17 officer. I'm here, but why am I being stopped for?  
 18 So I'm still worried about what's going on with  
 19 that.  
 20 Q You're certain that the officer that  
 21 says this to Yurkovic was a white officer, is that  
 22 right, who was taller than Yurkovic, but -- and it  
 23 appeared that he had some form of seniority,  
 24 although you didn't see stripes?  
 25 A Correct. I didn't pay attention to

217

1 that.  
2 Q Did he have a white shirt or a blue  
3 shirt?  
4 A He was in uniform. I don't know what  
5 he had.  
6 Q Well, white shirts generally designate  
7 a superior officer of the rank of lieutenant or  
8 higher and, you know, the dark uniforms are  
9 generally a sergeant.  
10 A I did not see.  
11 Q You didn't take any note of that?  
12 A Correct.  
13 Q And, by the way, that car that pulled  
14 up front-on with the Yurkovic patrol car was also a  
15 marked unit?  
16 A Yes.  
17 Q So you had three marked units at the  
18 scene at that point?  
19 A Yes, sir.  
20 Q Did those marked units then both  
21 leave?  
22 A Yes, the two cars left.  
23 Q Leaving Yurkovic and Oels with you?  
24 A Yes.  
25 Q And the group?

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1 A And the group, yes.  
2 Q Before these backup officers came to  
3 the scene, you didn't use any type of bad language,  
4 didn't threaten the officers, didn't boast about  
5 your being able to intimidate the officers.  
6 Nothing like that occurred, right?  
7 A Correct, sir.  
8 Q And you've read the police reports  
9 about what the officers' version of this event is.  
10 Isn't that right?  
11 A Yes, sir.  
12 Q And is it your position that from the  
13 point that the conversations began between the two  
14 of you that everything that the officers say is a  
15 lie?  
16 A Yes, sir.  
17 Q Your Answers to Interrogatories  
18 indicate that there were two police officers in  
19 each car that came up. Does that refresh your  
20 recollection that there were two in each car?  
21 A Um-hum. I had said one or two.  
22 Q I know; but does that refresh your  
23 recollection that there were two in each car, in  
24 other words, six cops at the scene at one time?  
25 A Again, I'm not hundred percent sure

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1 there was two in the front. Again, I'm not one  
2 hundred percent sure if it was one or two. I  
3 believe it was two; but if you're going to ask me  
4 to vouch, it was definitely one at a minimum. My  
5 recollection there was two; but, again, like I  
6 said, my concentration was on the front where I was  
7 standing.  
8 Q And this taller officer, did he say to  
9 "Give that mother fucker a lesson"?  
10 A Teach.  
11 Q "Teach that mother fucker a lesson"?  
12 A Yes, sir.  
13 Q "And give him a \$200 fine?"  
14 A Yes, sir.  
15 Q After this happened where both cars  
16 have now left the scene leaving Yurkovic and Oels  
17 to deal with, what's the next thing that happened?  
18 A Yurkovic went, he walked to the door,  
19 opened the door, reached in, and I believe it was  
20 in between the seat, looked like -- and grabbed  
21 what looked like a book or something.  
22 Q And did it look like a summons book  
23 that he would write in or did it appear to be some  
24 sort of a book to look up statutes and things?  
25 A I think it was a statute book because

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1 he reached in, grabbed it, went back to the hood,  
2 put it on the hood and he was flipping through the  
3 pages, so it was a statute book.  
4 Q When you say "the hood," are we  
5 talking about the hood or the trunk?  
6 A The hood of Yurkovic's car.  
7 Q The front part?  
8 A Yes.  
9 Q Were you watching him as he had the  
10 book out and he was flipping through the pages?  
11 A Yes, sir.  
12 Q What was Oels doing while that was  
13 going on?  
14 A Oels was just pretty much standing by  
15 my side.  
16 Q Still to your left?  
17 A Yes.  
18 Q You're still between a parked car, if  
19 there was a parked car, and the patrol car at that  
20 point?  
21 A Yes.  
22 Q And they didn't at any point tell you  
23 to get up onto the sidewalk?  
24 A No.  
25 Q Up to this point?

221

1 A No.  
2 Q Did they ever instruct you to get on  
3 the sidewalk?  
4 A Yes.  
5 Q When did they do that?  
6 A When I saw them writing -- he had the  
7 book on his hood, Officer Yurkovic. As he was  
8 flipping through, I reached into my pocket. I had  
9 my PBA card, and I approached him and I said,  
10 "Excuse me, Officer. This is a close friend of  
11 mine. His name is Jeremiah Hupka. He works for  
12 the Hunterdon County Sheriff's Department" or  
13 Office.  
14 Q And did Yurkovic take the card?  
15 A I don't even believe I started  
16 finishing the word "Sheriff's Office." He snatched  
17 it out of my hand and grabbed it with his two  
18 hands, putting it in front of him trying to cut it  
19 in half.  
20 Q To rip it in half?  
21 A To rip it in half with his hands. I  
22 guess he couldn't because it was plastic or hard.  
23 So he then took it and put it in his front  
24 pocket, which I believe was on his left chest; and  
25 then at that point he says, "This is going to do

222

1 you no good. Go stand on the sidewalk." So at  
2 that point I turned around and I stood on the  
3 sidewalk.  
4 Q Do you remember walking between the  
5 parked cars in order to get onto the sidewalk?  
6 A I don't recall.  
7 Q So at this point you don't recollect  
8 whether or not there were any cars parked from the  
9 corner opposite the Shell Station all the way up to  
10 the point where you had now gotten onto the  
11 sidewalk. Is that right?  
12 MR. KOBIN: Objection to form.  
13 A Correct. I don't remember if there  
14 was cars there.  
15 Q Okay. And then you went and stood on  
16 the sidewalk. Was Romain on the sidewalk by this  
17 time?  
18 A Yes.  
19 Q And the other members of your group  
20 were on the sidewalk?  
21 A Yes.  
22 Q How close were you to the other guys  
23 on the sidewalk in your group?  
24 A I was probably a few feet away from  
25 them, maybe four or five feet away from them.

223

1 Q Did anybody indicate -- and when I say  
2 "anybody," did Oels or Yurkovic indicate that --  
3 not for you to commingle with them or for you to  
4 stay separate from them or anything like that?  
5 A No.  
6 Q Did Oels walk up onto the sidewalk  
7 with you?  
8 A No.  
9 Q So he stayed in the same position  
10 between -- next to the patrol car?  
11 A Correct.  
12 Q What's the next thing that happened?  
13 A Next thing that happened, I remember  
14 my friend Romain come up to me and said, "Bass,  
15 don't worry about it. We'll go to court. There's  
16 no reason for him to give you a ticket," you know,  
17 just talking all among us.  
18 He gave me a cigarette, and I started to  
19 smoke a cigarette; and in that interim as he was  
20 flipping through the book and so forth, I noticed  
21 more police cars coming.  
22 Q And would you agree that -- did you  
23 hear either one of these officers calling backup at  
24 that point --  
25 A No, I did not hear.

224

1 Q -- a second time?  
2 A No.  
3 Q So you don't know why these other cars  
4 would be coming to this scene?  
5 MR. KOBIN: Objection to the form.  
6 MR. CONNELL: Strike the question.  
7 Q You didn't hear either one of the  
8 officers call backup. Is that right?  
9 A Correct.  
10 Q And therefore -- and there was nothing  
11 that you did in terms of your conduct that would  
12 have warranted any other officers coming to the  
13 scene. Is that right?  
14 A Exactly.  
15 Q And there was no altercation. There  
16 was no touching you by either of these officers at  
17 the point that the second backup group of officers  
18 were on their way?  
19 A Exactly.  
20 Q And was Romain the only one to talk to  
21 you when he said, "We'll fight this in court"?  
22 A Pretty much.  
23 Q "There's no reason to give the  
24 summons"?  
25 A Yes.



225

227

1 Q Is it fair to say that neither one of  
2 these officers, and by that I mean Oels or  
3 Yurkovic, put their hands on you before the other  
4 officers actually got to the scene?  
5 A Correct.  
6 Q And you were standing on the sidewalk  
7 with your friends when these other officers  
8 arrived?  
9 A Yes, sir.  
10 Q Do you know how many cars arrived?  
11 A As I was standing there smoking, I  
12 don't know how many exact cars.  
13 Okay. I saw there was police officers  
14 moving. I guess there was still people walking  
15 around, so they were moving people away from I  
16 guess the scene.  
17 Q Let's not talk about numbers of  
18 officers yet. Do you have any idea how many cars  
19 came in addition to Yurkovic's car?  
20 A They blocked Easton Avenue, so at that  
21 point I would assume four, five cars. With that  
22 section they blocked off both sides of the street.  
23 Q So basically in between where you were  
24 on Easton Avenue, they blocked access for anybody  
25 getting in from either direction on Easton Avenue.

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1 Is that right?  
2 A Yes, sir.  
3 Q When you say "block Easton Avenue,"  
4 did they need more than one car to basically block  
5 Easton Avenue, both lanes, or was it one car  
6 blocking the middle of the street?  
7 A I don't remember.  
8 Q Did you see any of the cars pull up --  
9 other than blocking Easton Avenue, did you see any  
10 of the other cars pull right up to where the  
11 Yurkovic car was?  
12 A I believe one car pulled up, one car  
13 pulled up, like I said --  
14 Q Near where the Yurkovic car was?  
15 A Yeah.  
16 Q Was it facing the Yurkovic car or was  
17 it facing -- was it at the rear?  
18 A I believe it came up from the rear  
19 side.  
20 Q Did you see that these cars had their  
21 lights and sirens on when they were approaching?  
22 A Yes, there were sirens.  
23 Q And did the lights --  
24 A I'm sorry. I don't know about sirens,  
25 but the lights were flashing, so lights, I'm sorry.

1 Q Did you hear any sirens coming at any  
2 time this night?  
3 A I don't recall about sirens.  
4 Q And while they were blocking the road,  
5 were the lights on?  
6 A Yes.  
7 Q And we're talking about the flashing  
8 lights up on top of the car and all that stuff?  
9 A Yes, sir.  
10 Q Did that surprise you that you would  
11 have all of this police attention when you're about  
12 ready to have a simple summons being issued to you?  
13 A Yes, sir.  
14 Q Did you hear the -- strike that for a  
15 moment.  
16 The cars that came up and blocked Easton  
17 Avenue, did they approach Yurkovic and Oels, or did  
18 they remain in a position where they were going to  
19 control the crowd from either end?  
20 A Some of the officers were controlling  
21 the crowd from the other end, and then a few of  
22 them gathered behind Yurkovic, so I don't know who  
23 came from where, but that's how it was.  
24 Q Can you describe any of the officers  
25 that would have came and approached Yurkovic and

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1 Oels in close proximity to where you were at this  
2 point?  
3 A Physical names?  
4 Q If you can give us names, that would  
5 be fine; but if you can't give us names, their  
6 descriptions in terms of, you know, height, weight,  
7 color.  
8 And I'm not talking about the guy standing  
9 on the perimeter staying with their cars making  
10 sure nobody drives into the area or walks into the  
11 area. You said there was at least one guy with  
12 each of the cars. Is that fair?  
13 A Yes, sir.  
14 Q At least. There may have been more.  
15 And then there were other cars that actually  
16 approached your group with Yurkovic, Oels and you  
17 guys?  
18 A Yes, sir.  
19 Q Can you describe any of the guys that  
20 actually got close to your position?  
21 A At that point, no.  
22 Q So you couldn't even tell us whether  
23 they were black or white or sizes or anything?  
24 A There was black officers involved.  
25 Again, size-wise, I don't remember sizes, but there

229

231

1 was white and black.  
 2 Q Do you remember, while these cars were  
 3 coming and blocking off the area, did Yurkovic  
 4 and/or Oels say anything to you letting you know  
 5 what was going to happen?  
 6 A No, sir.  
 7 Q At this point you haven't been issued  
 8 the summons?  
 9 A No.  
 10 Q You haven't been returned your  
 11 driver's license?  
 12 A Correct.  
 13 Q You haven't been returned the PBA  
 14 card?  
 15 A Correct.  
 16 Q Do you know whether or not Yurkovic  
 17 made any phone call to the sheriff's office at this  
 18 point?  
 19 A No.  
 20 Q Did Yurkovic ever leave your position  
 21 while these reinforcements were coming or backup  
 22 officers were coming?  
 23 A No.  
 24 Q So he basically stayed around you at  
 25 the front of car with that book out and your PBA

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1 card and DL in his pocket?  
 2 A Correct.  
 3 Q Did you hear the officers talk to each  
 4 other, and I'm talking about now this group when  
 5 they arrived and they approached your position?  
 6 A Talking to each other, no, I did not  
 7 hear them talk to each other.  
 8 Q Do you know whether or not they did  
 9 speak with each other?  
 10 A I heard Yurkovic point to me and say,  
 11 "The guy with the cigarette, let's go get him." He  
 12 said that in a loud tone; but again, they're  
 13 looking up among each other. They're not yelling.  
 14 They're pretty much talking in a low tone of voice,  
 15 so I can't hear specifics, but I did hear.  
 16 Q You did know that they were talking to  
 17 each other; and then you heard Yurkovic say words  
 18 that you can tell us about, which is, "Let's go get  
 19 him"?  
 20 A Pointing to me, and said, "The guy  
 21 with the cigarette, let's go get him."  
 22 Q Did he actually say, "The guy with the  
 23 cigarette" as he was pointing?  
 24 A Yes, sir.  
 25 THE WITNESS: Do you mind if I stand

1 up?  
 2 MR. KOBIN: Let's take a five-minute  
 3 break.  
 4 (At this point in the proceedings, a  
 5 brief recess is taken.)  
 6 BY MR. CONNELL:  
 7 Q Mr. Kandil, you stated that it was one  
 8 or two minutes when the first group of cars came up  
 9 to assist these two officers, then left the scene.  
 10 You then approached with a PBA card. You were told  
 11 to get on the sidewalk, and then some other period  
 12 of time passed where you then began to realize that  
 13 additional cars were then coming back to the scene,  
 14 right?  
 15 A Yes, sir.  
 16 Q How much time would you say from the  
 17 point that Police Officer Yurkovic's car first came  
 18 up alongside of you and stopped and the point that  
 19 that second group of officers was now coming as  
 20 backup?  
 21 A Guesstimate, ten minutes, fifteen  
 22 minutes is a guesstimate.  
 23 Q Do you have any idea where your wife  
 24 was turning around making that U-turn to come  
 25 around and pick you up?

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1 A Yes, sir.  
 2 Q Where was she?  
 3 A She was driving by. She came to see  
 4 what was going on, and she went to park the car in  
 5 the station and she came back. The street was  
 6 blocked. She walked, and at that point --  
 7 Q She would have gone around the  
 8 Yurkovic patrol car and she was -- that you were  
 9 being talked to by the officer and parked in the  
 10 Shell Station?  
 11 A I believe when she saw me, I was on  
 12 the sidewalk because she went up to me and said,  
 13 "What's wrong? What's wrong?" and I said, "They're  
 14 just giving me a ticket."  
 15 Q Did you ever ask her where she went  
 16 that took so much time in order to get back to  
 17 where you guys were?  
 18 A No.  
 19 Q Okay. Now, Officer Yurkovic pointed  
 20 at you, and he says, "The guy with the cigarette,  
 21 go get him. Let's go get him"?  
 22 A Correct.  
 23 Q Right?  
 24 A Yes, sir.  
 25 Q Is smoking against the Arabic

233

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1 religion?  
2 A No, sir, it's not.  
3 Q And do you normally smoke?  
4 A Yes, sir.  
5 Q Okay. And you got the cigarette  
6 yourself from your own pack of cigarettes and were  
7 able to light it yourself? No one assisted you?  
8 A I believe Romain gave me a cigarette.  
9 I didn't have -- it wasn't my cigarette. He gave  
10 me a cigarette.  
11 Q Was anyone else smoking at that time  
12 other than you?  
13 A Most of those guys smoke, so I don't  
14 know who was smoking and who wasn't.  
15 Q But you did have a cigarette on your  
16 person at the time that the officer said that?  
17 A Yes, sir.  
18 Q And you saw him pointing directly at  
19 you?  
20 A Yes, sir.  
21 Q Did you hear anybody else in the group  
22 having any problems with the police officers that  
23 would have warranted any kind of a reaction for  
24 them to call in reinforcements?  
25 A No, sir.

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1 Q Now, "Let's go get him," pointing his  
2 finger at you -- and that was said by Yurkovic. Is  
3 that right?  
4 A Yes, sir.  
5 Q And do you know who he said it to?  
6 A The group of officers that were around  
7 him.  
8 Q And what next happened?  
9 A They walked towards me. As they were  
10 walking towards me --  
11 Q Who is "they"?  
12 A Yurkovic and the police officers.  
13 Q Was Oels with them?  
14 A Yes, sir.  
15 Q How many officers walked towards you?  
16 A Four, five.  
17 Q So there would have been Yurkovic,  
18 Oels and two or three others?  
19 A Two or three others, correct.  
20 Q None of whom you can describe?  
21 A Physically, no.  
22 Q And you don't know who their names are  
23 at this time?  
24 A From the police report I know who they  
25 are, but --

1 Q Based upon what the officers  
2 acknowledged what happened?  
3 A Yes.  
4 Q What's the first thing that happened  
5 after these five, four or five officers approach  
6 you?  
7 A Yurkovic had a cuff in his hand. He  
8 grabbed my right -- my left hand, I'm sorry, put a  
9 cuff on it and then twisted my hand behind my back.  
10 Q Did he twist your left hand behind  
11 your back?  
12 A Yes, sir, my left hand behind my back,  
13 walked behind me, and as he was doing that -- and  
14 then reached with his right hand, put his hands  
15 around my neck from behind me and then, you know,  
16 choked me like backwards and brought my head  
17 backwards.  
18 Q So he grabbed your left hand, cuffed  
19 it, pulled it behind your back, doesn't reach for  
20 your right hand to cuff that, which you would have  
21 gladly given to him, correct?  
22 A Correct.  
23 Q But instead put his right arm around  
24 your neck and pulled you back?  
25 A Stood behind me as he was taking my

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1 left hand, putting it behind my back. That has the  
2 cuff on it. He's walking behind me. As he's  
3 walking behind me and comes behind me and with  
4 his -- I guess arm puts it around my neck and  
5 chokes my head back.  
6 Q And you're indicating it was with his  
7 right arm while he's holding your left wrist behind  
8 you?  
9 A Yes, at that point.  
10 Q And then what happened?  
11 A Two of the officers grabbed my right  
12 hand.  
13 Q Do you know who did that?  
14 A Oels and Adobe.  
15 Q Is that Abode, A-B-O-D-E? Is that who  
16 you mean?  
17 A Yes, Abode.  
18 Q So both officers grabbed your right  
19 hand?  
20 A Yes, both grabbed my right hand. They  
21 twisted it behind my back. As they're twisting it,  
22 they cuff me, all jumped on me, and they just kept  
23 saying, "You're under arrest. You're under  
24 arrest," and at that point, like I said, I'm  
25 getting punched, kicked, and I really didn't --

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1 Q So no officer instructed you to  
2 "Please turn around and place your hands behind  
3 your back"?  
4 A Correct, sir.  
5 Q No officer; and Officer Yurkovic  
6 grabbed your left hand, pulled it behind, didn't  
7 ask you to provide your right hand for cuffing,  
8 correct?  
9 A Correct.  
10 Q Instead he just grabbed you around the  
11 neck, at which point two other officers grabbed  
12 your right hand and then pulled it behind, and one  
13 of them that you can't tell us cuffed --  
14 accomplished the cuffing?  
15 A Yes.  
16 Q And after they cuffed you, Yurkovic's  
17 arm was still around your neck?  
18 A At that point all -- everybody jumped  
19 on me and --  
20 Q Everybody jumped on you?  
21 A Yes, sir.  
22 Q Meaning four -- these four or five  
23 officers?  
24 A The three or four, yes, four or five  
25 officers.

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1 Q Four or five officers?  
2 A Correct.  
3 Q Now, when Yurkovic put his arm around  
4 your neck, did he jump on you or was he standing  
5 when he did that?  
6 A He was behind me, like I said, with my  
7 hand around me, so I don't know --  
8 Q Well, did you feel his weight? You  
9 know, when somebody would be jumping on you, you  
10 feel the weight of a person on you as compared to  
11 just holding you around the neck. Which was it?  
12 A I don't know. My neck was backwards.  
13 I wouldn't recall that specifically.  
14 Q You don't know whether Yurkovic had  
15 jumped on your back? You don't know that at that  
16 point?  
17 A At that point, no, sir. He did --  
18 Q And you don't know --  
19 A I don't know if he jumped on me. Is  
20 that what your question is?  
21 Q We're only talking about when he put  
22 his arm -- when he first put his arm around your  
23 neck and he's holding your left arm, which he had  
24 already cuffed behind you, did he jump on you at  
25 that point?

1 A No, sir, he was choking me.  
2 Q He was just choking you; and at that  
3 point after the right hand got cuffed, that's when  
4 all of them jumped on you?  
5 A Correct.  
6 Q Do you know was it -- were you taken  
7 to the ground as a result of four or five officers  
8 jumping on you?  
9 A Yes, sir.  
10 Q And do you know how you fell to the  
11 ground?  
12 A Pretty much knees and face.  
13 Q Face forward?  
14 A Yes, sir.  
15 Q Do you happen to know how many cuffs  
16 were used to cuff you, how many sets of cuffs?  
17 A Two cuffs.  
18 Q Two sets of cuffs?  
19 A Yes, sir.  
20 Q Four cuffs?  
21 A No, two cuffs.  
22 Q One for one wrist and one for the  
23 other wrist, and that set of cuffs was just one set  
24 of two cuffs?  
25 A Yes, and then another set.

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1 Q And then another set?  
2 A Yes, sir.  
3 Q Are you saying that you had two loops  
4 around each wrist?  
5 A Correct. Initially I had one. Then  
6 when they finally finished beating me up and took  
7 me into the car -- before when I was laying face on  
8 the ground, they put another set of cuffs on me;  
9 and then they picked me up from my hand from  
10 behind, picked me up like that and then took me  
11 inside the car so (indicating) --  
12 Q Just to repeat, there was initially  
13 just one set of cuffs?  
14 A Yes, sir.  
15 Q And before they put you in the car,  
16 another set of cuffs was put on you, and you had  
17 two loops around each wrist?  
18 A Correct.  
19 Q Do you have any idea who placed the  
20 second set of cuffs on you?  
21 A No.  
22 Q When you were taken to the ground face  
23 forward, was this all on the sidewalk?  
24 A It was partly grass and sidewalk, so  
25 firstly there was a piece of grass and a piece of



241

1 the sidewalk there.  
 2 Q But it wasn't in the street?  
 3 A Correct, it was not in the street.  
 4 Q Did you make any contact with a  
 5 building which would have been on the other side of  
 6 the grass that you're talking about during this  
 7 struggle?  
 8 A I was standing in front of the stair  
 9 rail.  
 10 Q Try to answer my question. Did you  
 11 make any contact with a building?  
 12 A During the struggle you're saying?  
 13 Q During this entire altercation.  
 14 A No. I was leaning on a -- before they  
 15 came and arrested me, correct?  
 16 Q No, I didn't -- no. Okay.  
 17 A You're saying during the altercation?  
 18 Q I did ask you during the struggle.  
 19 When the officers put their hands on you, did you  
 20 make any contact with the building?  
 21 A No.  
 22 Q Were you attempting to bang any of the  
 23 officers into a building?  
 24 A No, sir, my hands were cuffed.  
 25 Q That's not my question. Cuffed or not

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1 cuffed, did you attempt to bang any of the officers  
 2 against a building in order to get them off you?  
 3 A No, sir.  
 4 Q And you're saying that at one point  
 5 you were leaning against a building?  
 6 A As we -- while we were smoking -- it  
 7 wasn't a building. If you were there, you would  
 8 see there's a -- like a stair rail, I guess, which  
 9 is right -- there's a sidewalk, a small piece of  
 10 grass and a stair rail, so I was just leaning on  
 11 the rail.  
 12 MR. KOBIN: Well, I don't have those  
 13 pictures.  
 14 MR. CONNELL: You don't have these?  
 15 Mark this as P-3.  
 16 (A photograph is received and marked  
 17 P-3 for identification by the reporter.)  
 18 BY MR. CONNELL:  
 19 Q I show you what's marked P-3. Does  
 20 that show that piece of grass? It looks like it's  
 21 the only lawn in the whole strip of buildings  
 22 there. Is that the grass that you're talking about  
 23 and that railing that's there?  
 24 A Yes, that metal railing, yes. I was  
 25 leaning and then standing, so just standing right

243

1 there.  
 2 Q In order to have gotten to that  
 3 railing that appears to be running parallel with  
 4 the sidewalk, you would have had to have stepped  
 5 across the grass and then leaned against the  
 6 railing. Is that right?  
 7 A Yes, sir, standing on the grass.  
 8 Q And were you facing the officers or  
 9 facing the street when you were leaning up against  
 10 that railing?  
 11 A Yes, sir.  
 12 Q Did you ever attempt to force the  
 13 officers against that railing during the struggle?  
 14 A No, sir.  
 15 Q Did you ever make contact with that  
 16 railing during the struggle?  
 17 A No.  
 18 Q Did you make contact with the stairs  
 19 that are on that adjacent building, you know,  
 20 further towards the Olde Queens Tavern during the  
 21 struggle?  
 22 A Because I was standing on the opposite  
 23 side, the opposite side.  
 24 Q Therefore, the struggle all occurred  
 25 in this little patch of grass and the sidewalk that

244

1 we see?  
 2 A That one corner there, yes, pretty  
 3 much.  
 4 Q Right in the corner?  
 5 A Yes.  
 6 Q Why don't you put a circle in the area  
 7 that you're talking about on P-3?  
 8 A (Witness complies.)  
 9 Q And this would have been the location  
 10 where Yurkovic put his arm around your neck, where  
 11 you got cuffed, and when they then put you onto the  
 12 ground face forward, correct?  
 13 A Yes, sir.  
 14 Q So basically the entire area of the  
 15 struggle would have been confined to what would you  
 16 say in terms of an area, six-foot circumference  
 17 area or eight feet? What would you say?  
 18 A Yes, six to eight feet.  
 19 Q Six to eight feet. Okay.  
 20 Now, after you were taken to the ground  
 21 facedown, what do you remember happening?  
 22 A I was being punched and kicked. I  
 23 remember --  
 24 Q Do you know how many people were doing  
 25 that, how many officers were doing that?

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1 A I don't know the exact number. To me  
2 it was just multitude of legs and feet.  
3 Q Fair to say you don't know whose feet  
4 were delivering kicks and whose punches were  
5 delivering blows. Is that fair?  
6 A I don't know who was doing what, but I  
7 know, yes --  
8 Q Well, that's what I mean. You're  
9 talking about one of these four or five officers  
10 that had jumped on you.  
11 A At that point, at that point -- again,  
12 it's a long process.  
13 So again I got jumped on, brought to the  
14 ground; and as I was laying on the ground, I was  
15 being punched and kicked and stomped on. I was  
16 also --  
17 Q By officers that you can't identify?  
18 A I'm on the ground.  
19 Q You can't --  
20 MR. KOBIN: Objection to form.  
21 Objection to form.  
22 Q You can't identify the names of the  
23 four officers, any of the four or five officers  
24 that were involved as to who delivered what blows.  
25 Is that fair?

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1 A At that point, correct, yes, sir.  
2 Q And how long was the punching and  
3 kicking going on?  
4 A I don't know what time, how long it  
5 was.  
6 Q Well, what did it take? Probably  
7 seemed like an eternity to you.  
8 A Seemed like ten, fifteen minutes. I  
9 don't know how long it was. Seemed like an  
10 eternity.  
11 Q What's your best estimate now as to  
12 how long that you were punched and kicked or how  
13 many punches and kicks that were delivered to you?  
14 A Initially I say it was ten minutes,  
15 but again I don't know if it was --  
16 Q When you say initially it was ten  
17 minutes --  
18 A After it happened, to me in my mind I  
19 said it was ten minutes, that they were beating me  
20 up for ten minutes; but, again, I didn't get to  
21 finish the rest of that. I'm sorry. If I could  
22 finish it --  
23 Q Well, I'm going to let you finish the  
24 whole story; but I'm saying while you were on the  
25 ground being punched and kicked, it felt originally

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1 like it was ten minutes. What's your best estimate  
2 now after you had a time to reflect on it?  
3 A Maybe it was four minutes.  
4 Q And during those four minutes, would  
5 you say that the kicks and the punches were  
6 nonstop?  
7 A Yes.  
8 Q As do you know what parts of your body  
9 were being kicked and punched?  
10 A Yes.  
11 Q Where do you remember being kicked?  
12 A The side, my sides or my rib cage  
13 area.  
14 Q Both sides?  
15 A Yes.  
16 Q Right and left ribs?  
17 A All the way around, yes. I remember  
18 the right more.  
19 Q What else? Right and left ribs. What  
20 else?  
21 A Again, at one point my --  
22 Q I'm talking about kicks right now.  
23 A Kicks?  
24 Q Yes. Where were you kicked?  
25 A I was being kicked on my side of my

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1 body and my shoulders.  
2 Q Both sides of your body and shoulders?  
3 A Correct.  
4 Q And when you say both sides of your  
5 body, are you talking about your thighs and your  
6 calves, your legs?  
7 A No, mostly -- no, mostly from my waist  
8 up to my neck area.  
9 Q So the torso?  
10 A Yes, including shoulders.  
11 Q Both sides of the torso from basically  
12 your waist area to the shoulders?  
13 A Correct.  
14 Q Is that the only place that you were  
15 kicked?  
16 A I was -- there was a -- big bruises on  
17 my foot, on my ankle, so I don't know if that was a  
18 kick or not, but the main concentration was my  
19 upper body.  
20 Q Do you recall where you were punched?  
21 A I was punched in my back, punched in  
22 my face.  
23 Q Any other areas that you could  
24 remember?  
25 A Well, like I said, Yurkovic was

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1 standing on my back, but I didn't get to finish the  
2 rest of the story.  
3 Q Well, I'm just asking you where you  
4 were punched. Have you given me all the areas that  
5 you were punched?  
6 A Yes, sir. Head, face.  
7 Q Do you remember that -- you say that  
8 Yurkovic was on your back?  
9 A Yes.  
10 Q He was on your back with three or four  
11 other officers when they took you to the ground,  
12 right?  
13 A Brought me to the ground. As they  
14 were beating me --  
15 I'm sorry, sir. Go. I apologize.  
16 Q That's correct right up to that point?  
17 A Yes.  
18 Q And you said you were being kicked and  
19 punched for about four minutes?  
20 A Yes.  
21 Q Do you recall that while you were  
22 being kicked and punched for these four minutes,  
23 that Yurkovic was still lying on your back?  
24 A No.  
25 Q Okay. Did there come a time when you

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1 were lifted up?  
2 A Yes, sir.  
3 Q And how were you lifted up?  
4 A I was grabbed by my hair, grabbed by  
5 my hair and my -- I guess my shoulder area.  
6 Q Is your hair shorter now than it was  
7 then?  
8 A Yes.  
9 Q How long was your hair back then?  
10 A I mean obviously I had a lot more  
11 hair.  
12 Q Would you agree nobody could grab your  
13 hair right now?  
14 A Yeah.  
15 Q You would agree with that?  
16 A Yes.  
17 Q Your hair was longer back then?  
18 A Little longer.  
19 Q How much longer was it?  
20 A It was fuller, fuller, and maybe inch  
21 longer.  
22 Q So they were able to grab an inch of  
23 hair?  
24 A You can grab your hair like this if  
25 you want (indicating).

1 Q In any event, your one inch of hair is  
2 what they were grabbing to lift you up?  
3 A Longer than this, I would say about an  
4 inch longer than what I have now.  
5 Q What do you have now?  
6 A I don't know how long it is. There's  
7 not a whole lot. I can tell you that much.  
8 Q We can see that, and it's -- you know,  
9 if it's a half-inch long, that would be giving the  
10 benefit of the doubt.  
11 What I'm asking is you're basically saying  
12 your hair was basically about an inch long at the  
13 time of the incident?  
14 A Correct, sir, longer and thicker. I  
15 had a little more hair.  
16 Q Okay. So they grabbed you by the  
17 hair, and they also grabbed you how?  
18 A Basically I said they picked me up,  
19 and they picked me up and --  
20 Q How did they do that?  
21 A Just grabbing me by my shoulders.  
22 Q Underneath your shoulders and your  
23 armpits?  
24 A Yes, just grabbing.  
25 Q Was that one officer on either side of

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1 you that did that?  
2 A Yes. Oels was here (indicating).  
3 Q Oels was on your right side?  
4 A Yurkovic was the one that grabbed my  
5 hair or grabbed my head lifting my head up because  
6 he was in front of me. Oels was here  
7 (indicating) --  
8 Q So Yurkovic grabbed your hair from the  
9 front?  
10 A Yes. So now he was in front of me.  
11 Q Okay. Oels was on your right. Who  
12 was on your left?  
13 A The officer which I believe later was  
14 Abode -- Adobe -- Abode.  
15 Q And they then lifted you to your feet?  
16 A Not really to my feet, up to -- I was  
17 at that point on my knees pretty much.  
18 Q Lifted you to the knees?  
19 A Yes.  
20 Q To a kneeling position?  
21 A Correct, kneeling.  
22 Q And then what happened?  
23 A At the same time, Yurkovic started  
24 punching me in my face.  
25 Q While you were kneeling down?

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1 A Yes, sir.  
2 Q Handcuffed?  
3 A Yes, sir. As he was punching me in my  
4 face --  
5 Q Where did he hit you in your face?  
6 A My recollection was the face, the  
7 front of my face, the side and my nose area, my  
8 nose to my cheek.  
9 Q Was he using his right fist to punch  
10 you?  
11 A Yes, I believe it was his right fist.  
12 Q You're referring to the right side of  
13 your face?  
14 A I'm trying to -- most of the punches  
15 were to my nose area because I felt my nose  
16 explode, just like blood started to rush out.  
17 Q Do you know what a jab means? Do you  
18 know what a punch called a jab is?  
19 A No, just a short punch.  
20 Q You don't know what a jab is,  
21 straight-on punch, arm extended straight at you, as  
22 compared to a roundhouse?  
23 A I guess just like that (indicating).  
24 Q So for the record, you're talking  
25 about short punches?

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1 A Correct.  
2 Q Which were -- basically the fist was  
3 moving approximately a foot from where he would  
4 release the punch until where it hit you?  
5 A Correct. They were close. He had me  
6 up, and he just started punching me in the face.  
7 Q Was he holding your hair while he was  
8 punching you in the face?  
9 A Yes, he was pulling my hair and hit my  
10 head back.  
11 Q Do you know what hand was holding your  
12 hair?  
13 A I don't remember.  
14 Q Do you know what hand was punching  
15 you?  
16 A I want to say it was his right hand.  
17 Q So therefore his left hand would have  
18 been holding your hair?  
19 A Correct.  
20 Q And the other officers were watching  
21 this as it was going on?  
22 A Yes. While --  
23 Q How many times did he punch you in the  
24 face?  
25 A Three, four times.

1 Q And you believe that these landed on  
2 your nose as well as the right side of your cheek?  
3 A The right cheek area, pretty much  
4 here, mostly in my nose area (indicating).  
5 Q But just so the record is clear,  
6 you're saying the nose as well as the right side  
7 under your right eye.  
8 A I don't remember which side, but it  
9 was my nose. That's the big thing I remember  
10 because all I remember is I felt my nose gush out  
11 with blood, and literally I felt I went black for a  
12 quick second, but I really didn't pass out. I  
13 just -- so that's the -- most of it was my nose.  
14 Q And your best recollection, there was  
15 three punches delivered to that area?  
16 A Three to four punches, a couple.  
17 Again, to me it seemed like there was more. Again,  
18 I wasn't counting, but a real amount, probably  
19 three to four.  
20 Q Three to four punches. Was anyone  
21 holding you, other than Yurkovic holding your hair,  
22 when these punches were delivered to your nose?  
23 A Yes, sir. I was being held again by  
24 the two other officers; and they were also kicking  
25 me, kneeling me in my -- I believe Oels, he was on

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1 my right. He was kneeling me in my rib area, and  
2 the other guy -- I guess they were punching me in  
3 my back or -- on top of my back, I should say, or  
4 behind my back.  
5 Q And you believe that both officers who  
6 were holding you, Abode and Oels, were kneeling you  
7 in the rib area and also punching you in the back?  
8 A Yes, sir.  
9 Q And how long would you say that you  
10 were in this position, in that kneeling position  
11 receiving these variety of punches and knees and --  
12 A I'd say that whole incident of  
13 getting beat up, like I said originally, was  
14 probably five minutes, five to six minutes in  
15 total. That's why I said originally -- that's why  
16 I thought you meant from beginning to end,  
17 approximately five to six minutes in total from  
18 when they first cuffed me until that point.  
19 Like I said, it's hard for me to give you  
20 time because for me I have no perception of time.  
21 It just seemed like it never ended.  
22 Q If the first part of the punching and  
23 kicking when you were lying down was four minutes,  
24 then this is another one to two minutes?  
25 A Correct, two minutes, three minutes



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1 after that, correct.  
 2 Q Two to three minutes?  
 3 A Yes.  
 4 Q Now, were you saying anything while  
 5 you were being beaten like this?  
 6 A Yes. I was just yelling in pain.  
 7 Q What were you saying?  
 8 A Just yelling in pain, you know,  
 9 "Please stop. Please stop," and that was it.  
 10 Q Did you ever ascertain whether or not  
 11 your wife was able to get close enough to see what  
 12 was going on?  
 13 A When I stood up, she was standing, so  
 14 I don't know -- again, I was being beat up; but  
 15 when I did stand up, she was standing there with my  
 16 other friends.  
 17 Q Did you ever ascertain whether or not  
 18 your wife was close enough to see what was going  
 19 on?  
 20 A To be honest with you --  
 21 MR. KOBIN: Objection to the form of  
 22 the question.  
 23 Q I'm going to ask it again. Did you  
 24 ever ascertain yourself whether or not your wife  
 25 was close enough to see what was going on?

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1 MR. KOBIN: Okay. I'm going to object  
 2 to the form of the question.  
 3 MR. CONNELL: Your objection is noted.  
 4 MR. KOBIN: Thank you.  
 5 MR. CONNELL: You don't have to say  
 6 anything for --  
 7 MR. KOBIN: Just slow down. You may  
 8 answer the question.  
 9 BY MR. CONNELL:  
 10 Q Did you ever ascertain that your wife  
 11 was close enough to see what was going on?  
 12 A You mean after the fact?  
 13 Q Up to the present time.  
 14 A Up to the present time, yes.  
 15 Q So you talked to her about it?  
 16 A Yes. We never really spoke about it,  
 17 never sat down and had a conversation.  
 18 Q Did you ever ask her if she saw you  
 19 being beat --  
 20 A She did see me.  
 21 Q Did you ask her, "Did you see what  
 22 happened?" Did you ask her the question?  
 23 A Yes. She did see me.  
 24 Q Did she tell you what she saw?  
 25 A I never really got into conversations

1 with her, deep conversations.  
 2 Q Whether they were deep or otherwise,  
 3 when you saw your wife was close-by, you're being  
 4 beaten for five to six minutes, did you ever ask  
 5 your wife, "Did you see what was going on? Did you  
 6 see what happened?"  
 7 A No, never really sat down and have a  
 8 conversation about it.  
 9 Q So you don't know whether or not she's  
 10 a witness to the actual beating yet?  
 11 A Again --  
 12 Q Your wife?  
 13 A Again, when I stood up, my wife was  
 14 standing there.  
 15 Q I understand that. You said she was  
 16 standing there. What I'm asking you is did you  
 17 ever have a conversation with her to ask her  
 18 whether or not she would be able to testify about  
 19 the fact that she saw the actual beating that was  
 20 going on for five to six minutes?  
 21 A Of course she did see it. That's why  
 22 she's here. She's not here for --  
 23 Q But you never talked to her about it?  
 24 A We have never had a conversation about  
 25 it. It's not something you really want to talk

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1 about. It's a bad memory. It's not like it's a  
 2 party, a festival, a wedding.  
 3 Q Did you ever talk to any of your other  
 4 friends at any time up to the present time whether  
 5 or not they were an actual witness to the beating?  
 6 A Yes.  
 7 Q And who did you talk to?  
 8 A Mohamed Farzaie.  
 9 Q Is there anybody that you didn't talk  
 10 to, let me put it that way, out of that group of  
 11 seven guys that was with you?  
 12 MR. KOBIN: Just one second.  
 13 Objection to the form of the question.  
 14 MR. CONNELL: I'll withdraw the prior  
 15 questions.  
 16 Q Did you talk to any of the seven  
 17 members of your group --  
 18 A What do you mean by "talk"?  
 19 Q -- not --  
 20 A What do you mean by "talk"?  
 21 Q Did you discuss the incident?  
 22 A We just talked what happened, this,  
 23 that, that, that, or "What's your opinion? What's  
 24 your views?"  
 25 Q Did you ask them whether they were a

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1 witness to the beating?  
 2 A Yes. Yes, sir.  
 3 Q And did you ask that to each one of  
 4 them?  
 5 A Yes, sir.  
 6 Q And did each one of them say "Yes"?  
 7 A Yes, sir.  
 8 Q Did any of them tell you what they  
 9 saw?  
 10 A Yes, sir.  
 11 Q Did you talk to them all in a group or  
 12 did you talk to them separately?  
 13 MR. KOBIN: Objection to form. Go  
 14 ahead.  
 15 Q Did you talk to them in a group or  
 16 separately?  
 17 A I don't recall.  
 18 Q Well, when did you talk to -- you  
 19 don't remember whether or not you talked to them  
 20 all together or whether or not you talked to them  
 21 individually?  
 22 A I do not remember, no.  
 23 Q Do you remember whether or not anybody  
 24 was with you when you talked to these seven male  
 25 friends of yours?

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1 MR. KOBIN: Objection to form.  
 2 You can answer the question, but --  
 3 A Like I said, I'm just talking among  
 4 ourselves, so I don't recall if it was in a group.  
 5 Q Well, when I say "anybody was with  
 6 you," what I meant, was there an investigator  
 7 present? Was there a lawyer present?  
 8 Was anyone else present other than you and  
 9 the people that you were talking to --  
 10 A No.  
 11 Q -- amongst yourselves?  
 12 A No.  
 13 Q And you say you were amongst  
 14 yourselves. Were you at some sort of a gathering,  
 15 a party? Did you get together for the purpose of  
 16 speaking about this? How was it that you got  
 17 together?  
 18 A Well, again, some of them are my  
 19 family and the rest of them are co-workers, so I  
 20 pretty much see them almost every day.  
 21 MR. STONE: Billy, let me ask one  
 22 question.  
 23 You indicated that no one was with you when  
 24 you had these discussions when you were amongst  
 25 yourselves. Well, when you weren't just amongst

1 yourselves, did you ever have a conversation with  
 2 either an investigator or an attorney present with  
 3 any of these people who say they saw what occurred  
 4 during the beatings?  
 5 THE WITNESS: Did I personally have  
 6 with them?  
 7 MR. STONE: With them or with an  
 8 investigator or attorney present.  
 9 THE WITNESS: No. They sat down with  
 10 an investigator --  
 11 MR. STONE: You weren't there, so you  
 12 can't tell us what happened. Were you ever there  
 13 when there was any discussion with the people that  
 14 you say witnessed the beatings and an attorney or  
 15 an investigator? Were you ever present during that  
 16 time?  
 17 THE WITNESS: Was I present there?  
 18 Yes.  
 19 MR. CONNELL: We'll get back into each  
 20 one of these individually.  
 21 BY MR. CONNELL:  
 22 Q Before we start talking about these  
 23 witnesses again, from the point that this beating  
 24 stopped after five to six minutes, what happened  
 25 next after this beating stopped and you're on your

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1 knees?  
 2 A At that point they again brought me  
 3 back -- jumped on me again, had me on the floor.  
 4 Q So then they jumped on you after you  
 5 were on your knees and forced you back down to the  
 6 ground?  
 7 A Back to the ground again.  
 8 At that time, they put another set of cuffs,  
 9 picked me up from my forearm behind me, grabbed my  
 10 two arms cuffed behind me and lifted me up like  
 11 that and took me into the car and then --  
 12 Q So then after this two- to  
 13 three-minute beating while you were kneeling, they  
 14 then jumped on you again, forced you to the ground  
 15 and continued to kick and punch you?  
 16 A Yes, sir.  
 17 Q And how long did this take place?  
 18 A The whole incident again, sir, was  
 19 five to six minutes. That's what I'm trying to  
 20 explain. Five to six minutes was the whole  
 21 incident. That's what I kept trying to explain,  
 22 but you're misunderstanding me.  
 23 Q How long did the last portion where  
 24 you were kneeling up, you had received your  
 25 beating, from the point that they jumped on you

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1 again, forced you to the ground and began to punch  
2 and kick you, how long did they do that?  
3 A The first incident was about --  
4 Q I'm not asking you about the first  
5 incident.  
6 MR. KOBIN: Objection.  
7 A The whole thing is five, six minutes.  
8 MR. KOBIN: He's going to answer the  
9 questions the way he wants to answer your  
10 questions, sir, and that's it. Don't interrupt him  
11 again.  
12 Answer the question.  
13 MR. CONNELL: Don't raise your voice  
14 to me or we're going to have a problem.  
15 MR. KOBIN: I'll tell you what,  
16 Mr. Connell. We have a problem because you won't  
17 let the witness answer the questions --  
18 MR. CONNELL: I asked him --  
19 MR. KOBIN: If he wants to go through  
20 a process to get there, he's allowed to.  
21 MR. CONNELL: No, he's not.  
22 MR. KOBIN: He is. He's allowed to.  
23 So your idea of how people are allowed to answer  
24 questions is incorrect. They can answer them as  
25 they understand them and they can get to the

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1 information that you're seeking the way they want  
2 to get there, and that's --  
3 MR. CONNELL: You have your position.  
4 He's to answer the questions that we've got, but  
5 I'm going to allow Mr. Kobin to have his way.  
6 BY MR. CONNELL:  
7 Q The first time that you were there, he  
8 choked you around the neck, came around you --  
9 Yurkovic choked you around the neck, brought his  
10 arm around, your left arm around. You were then  
11 jumped on by the officers after your right wrist  
12 was cuffed. You were then forced down onto the  
13 ground. Then you were punched and beaten, correct?  
14 A Um-hum.  
15 MS. O'CONNOR: Yes?  
16 Q Is that a "Yes"?  
17 A Yes.  
18 Q How long did that happen?  
19 A Two to three minutes. Again, all due  
20 respect, you're asking me time. I didn't have  
21 perception of time.  
22 Q Well, none of us were there. We can't  
23 ask anybody else.  
24 A Again, I don't know if it's ten  
25 minutes or one minute.

1 Q That's why we're going through this  
2 process, to see if you can have a better  
3 understanding of your initial estimate of the ten  
4 minutes.  
5 Two to three minutes was the first time that  
6 they jumped on you and forced you to the ground,  
7 punched and kicked you innumerable times and you  
8 can't tell us what was going on; and then they  
9 pulled you onto your knees, correct?  
10 A Yes, sir.  
11 Q And then they began to knee you into  
12 your ribs and to punch you. Yurkovic also grabbed  
13 you by the hair and started punching you in the  
14 face. How long did that take?  
15 A A minute and thirty seconds.  
16 Q So one and a half minutes, right?  
17 A Yeah.  
18 Q Okay. Then they jumped on you again,  
19 forced you back down to the -- onto the ground, and  
20 they were then kicking and punching you again. At  
21 that point they also put an additional set of cuffs  
22 on you, correct?  
23 A Correct, sir.  
24 Q And how long did that last?  
25 A About a minute to two minutes also.

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1 Q And then they picked you up with two  
2 sets of cuffs on, one officer again on either side  
3 of you picking you up under your armpits, and they  
4 brought you to your feet at this point?  
5 A Yes, sir.  
6 Q And what did they do with you?  
7 A Walked me to the car. As they were  
8 walking me to the car, as they were picking me up,  
9 I noticed my phone was on the floor. I asked the  
10 officer, "My phone, my phone, please get me my  
11 phone," and he said, "Don't worry about it."  
12 Again, to my left was my wife, Zizo -- the  
13 other guys in my party. As they were walking me to  
14 the car, I said to them, "Take a picture. Take a  
15 picture," meaning take a picture because, you know,  
16 I'm here, I'm getting beat up, so I don't know what  
17 the next step -- what are they going to do to me,  
18 take me, throw me in the river or what they're  
19 going to do to me and when they would let me out,  
20 so --  
21 Q During this --  
22 A -- as they were walking to the car.  
23 Q During this six and a half minutes  
24 that you've described here, did you ever tell  
25 anybody while you were being beaten for anybody to

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1 take a picture?  
2 A No, sir.  
3 Q Did any of your friends have cell  
4 phones?  
5 A Yes, sir.  
6 Q Do they all have cell phones?  
7 A Most part, yes.  
8 Q And did any of them take any pictures  
9 while this beating was going on?  
10 A No, I don't believe so.  
11 Q But after it's all over, you're being  
12 walked to the car, you wanted them to take a  
13 picture of you because you were afraid of them  
14 throwing you in the river, right?  
15 A Yes, because they were taking me to  
16 the car. I said to them, "Take a picture."  
17 Q Take a picture of you. That's what  
18 you meant?  
19 A Yes.  
20 Q In handcuffs?  
21 A Yes, standing by the police car.  
22 Q Did you ever ask any of these  
23 individuals who were watching this thing going on  
24 for six minutes or so, did you ever ask any of them  
25 whether or not any of them had taken any pictures

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1 with their cell phones while this beating was going  
2 on over a course of six minutes?  
3 A Nobody ever thought of it. They were  
4 all awed by the situation.  
5 Q So you did ask the question, and that  
6 was their response?  
7 A Correct.  
8 Q Up to the present time, you have never  
9 been advised of anybody in the public who may have  
10 been in this area who had taken pictures of what  
11 was going on?  
12 A Correct.  
13 Q Is that right?  
14 A Yep.  
15 Q And do you recall as you were being  
16 beaten whether or not there were a lot of people  
17 around, other than the seven people in your group,  
18 seven, eight people in the group, including your  
19 wife and her friends?  
20 A There was people in the area. Again,  
21 I'm not paying attention who is where. Again,  
22 people walk up and down.  
23 Q Right. Can you estimate approximately  
24 how many people may have been in that area? Are we  
25 talking about a couple hundred people in the area?

1 A I wouldn't say that much; but again, I  
2 can't give you an estimate. I don't think it  
3 was --  
4 Q More than 50?  
5 A It wasn't a crowd. Again, I don't  
6 know.  
7 Q Do you have any witnesses that you  
8 intend to produce at trial who are not members of  
9 your group that was partying that night?  
10 A Nope, unless my lawyer has somebody;  
11 but me personally, I'm not sure of anybody.  
12 Q You haven't advised your lawyer of any  
13 witness that has come up to you or any member of  
14 your family that was not among your group that was  
15 partying. Is that fair to say?  
16 A Well, you have Pamela; but we also  
17 have Lindsay. We were trying to use her.  
18 Q Do you know if either one of them were  
19 witnesses to the fight?  
20 A Yes.  
21 Q How do you know that?  
22 A They said that they saw it.  
23 Q Who said?  
24 A Lindsay.  
25 Q What did Lindsay say and to whom?

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1 A Lindsay was saying it to Romain. Also  
2 we found out from other people that Pamela; and  
3 they were also saying stuff when they were going  
4 out to bars, clubs, boasting about it, about what  
5 happened that night.  
6 Q But that's --  
7 A That's hearsay.  
8 Q That's not what I'm asking. I'm  
9 asking whether or not -- did Lindsay ever say to  
10 you or any member of your group that she saw the  
11 actual fight going on?  
12 A The actual fight?  
13 Q Yes, that's my question, the beating.  
14 A I don't know about the physical  
15 beating, no. I don't know. She saw the incident,  
16 but she --  
17 Q Well, the incident, does that include  
18 the beating?  
19 A The incident when they started up and  
20 she was far away, but they did see that there was a  
21 confrontation going on.  
22 Q That's what I'm getting at. Obviously  
23 she was around at the time that you had the  
24 conversation, Romain was talking to her at the  
25 Shell Station. What I'm asking you is did any



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1 friends of yours or any investigator that you may  
2 have been with ever indicate to you that Lindsay  
3 saw the actual beating take place?  
4 A I don't know if it was the actual  
5 beating. Again, I'd have to -- I'd have to see  
6 what she had said.  
7 Q So you don't know if she saw the  
8 beating as you sit here today?  
9 A Correct. I don't recall, not I don't  
10 know.  
11 Q You were then taken and placed in the  
12 Yurkovic patrol car?  
13 A Yes, sir.  
14 Q And you were then transported to  
15 headquarters?  
16 A Yes, sir.  
17 Q And was Yurkovic and Oels both in that  
18 car?  
19 A Yes, sir.  
20 Q Do you know whether or not any other  
21 officers escorted you into headquarters?  
22 A No.  
23 Q Just those two?  
24 A Yes, sir.  
25 Q And do you remember where you were

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1 brought, into what kind of a room you were brought?  
2 A They pulled into some type of garage.  
3 It opened up. They went in. The garage closed,  
4 and they brought me into a -- it was like a -- I  
5 want to say it was an open room.  
6 Q I'm going to call it a processing  
7 room. Is that a room where there was a bench and  
8 the officer would be able to fill out reports by  
9 asking you questions?  
10 A Correct.  
11 Q Are you comfortable with us calling it  
12 a processing room?  
13 A Sure.  
14 Q And were you brought to a bench and  
15 sat on a bench?  
16 A I remember sitting on a chair. To my  
17 recollection it was a chair.  
18 Q And was there any pole near that chair  
19 that was affixed to the ground?  
20 A There was a post, yes.  
21 Q A post?  
22 A Yes.  
23 Q And do you remember what was done with  
24 the handcuffs?  
25 A It was kept behind my back for awhile;

1 and then I kept complaining about it being tight  
2 and hurting me, so then they cuffed me to the post.  
3 My recollection the post was in front of me.  
4 Q So you remember having two sets of  
5 cuffs on you at this point, right?  
6 A Yes, sir.  
7 Q When you were seated in the chair?  
8 A Correct.  
9 Q And that's when you said that the  
10 cuffs were bothering you?  
11 A Yes.  
12 Q And the officers took the cuffs off  
13 and cuffed you to that post?  
14 A Yes.  
15 Q And who was that that removed the  
16 cuffs and cuffed you to the post?  
17 A I don't recall if it was Yurkovic.  
18 I believe it was Oels because Yurkovic was  
19 standing next to me, so I believe it was Oels.  
20 Q Do you remember a set being taken off  
21 and not being cuffed to the pole, because you  
22 talked about having two sets of cuffs?  
23 Did they cuff two sets of cuffs to the pole  
24 or one?  
25 A I believe it was one set.

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1 Q Do you know what happened to the other  
2 set?  
3 A No.  
4 Q Was only one hand cuffed to the pole?  
5 A No, sir, two hands were cuffed, but  
6 one set. When I say "set," it's two --  
7 Q Now, when they took your cuff off, you  
8 said that they cuffed you to a pole?  
9 A Yes.  
10 Q That would mean that one cuff would be  
11 affixed to the pole, right?  
12 A Yeah, that would.  
13 Q And one cuff was still on your wrist?  
14 A I remember I was cuffed to the pole  
15 (indicating).  
16 Q You're indicating with your two hands  
17 in front of you cuffed to the pole?  
18 A Correct.  
19 Q Do you know whether or not both hands  
20 were still handcuffed when you were also handcuffed  
21 to the pole?  
22 A They cuffed both my hands to the pole.  
23 Q Do you know how that was done?  
24 A I don't recall.  
25 Q Well, did you have two sets of cuffs

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1 then on the pole, one cuff on the right wrist, the  
2 other cuff with respect to that set was on the  
3 pole, one cuff on your left wrist with the other  
4 cuff on that set of cuffs also on the pole?  
5 A I do not recall. All I remember is  
6 both hands were cuffed to the pole. That's my  
7 recollection.  
8 Q You were then asked various questions  
9 about your pedigree, date of birth, address, that  
10 kind of stuff?  
11 A Yes, citizen, no citizen.  
12 Q Were you asked if you were injured?  
13 A Nope.  
14 Q Did you see any other officer come  
15 into the processing room other than Oels and  
16 Yurkovic?  
17 A There was one or two officers not in  
18 uniform. It was like open. It wasn't an enclosed  
19 room, so there was people walking around.  
20 One officer was to my left sort of diagonal  
21 from me. He was laughing, saying, "Oh, you're an  
22 idiot. Look what you did to yourself," this, that,  
23 that. There was one or two black officers again on  
24 the right, again stating, "You're lucky we weren't  
25 there. If we were there, we would have fed you up

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1 more."  
2 Q There were two black officers that  
3 said that?  
4 A And that's it; and both were going and  
5 coming because it was an open room, and everybody  
6 laughed and whispered and stuff like that.  
7 Q By the way, during that entire  
8 struggle that was at the scene --  
9 MR. KOBIN: Objection to the form.  
10 MR. CONNELL: To the word "struggle"?  
11 Q With respect to the entire  
12 altercation, whatever we want to call it, where the  
13 officers were in contact with you, did you ever  
14 attempt to grab at Officer Yurkovic's firearm?  
15 A No, sir. I was cuffed, so I couldn't.  
16 Q So you were cuffed almost immediately  
17 from the time that this six-minute interval  
18 occurred?  
19 A Correct, sir.  
20 Q And all punches and kicks were  
21 delivered after you were cuffed, correct?  
22 A Correct, sir.  
23 Q And while you were cuffed, you didn't  
24 seek to get control of any officer's gun. Is that  
25 right?

1 A I was on the floor, sir, so correct.  
2 Q While you were in headquarters, do you  
3 remember any superior officer coming up to you?  
4 A Yurkovic and Oels, they were going  
5 back and forth on the right corner towards the  
6 back. It's sort of like a hallway and comes  
7 around. There was a gentleman that came that I  
8 found out later was Sergeant Oels. At that point,  
9 Yurkovic and Oels ran up to him and they were  
10 having a conversation back and forth in the corner.  
11 Q So you're saying Yurkovic and Oels ran  
12 up to the sergeant?  
13 A Walked up. I don't know if he  
14 physically ran, but what I mean by -- walked up.  
15 They went and approached him.  
16 Q Did you hear what they were saying?  
17 A No, I could not hear. Sergeant  
18 Oels --  
19 MR. STONE: Billy, can I ask one  
20 question? I want to fill one thing in.  
21 From when you were lifted up and walked  
22 towards the patrol car to when you were actually  
23 brought to the processing room, there were no more  
24 strikes or blows or anything that occurred between  
25 you and the officers, correct?

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1 THE WITNESS: Correct.  
2 MR. STONE: I'm sorry. Go ahead.  
3 BY MR. CONNELL:  
4 Q In fact, the -- the entire time that  
5 you were in custody, even when you were in the  
6 hospital, you were never struck again. Isn't that  
7 right?  
8 A Correct, sir.  
9 Q After the conversation between  
10 Yurkovic and Oels and the sergeant -- and Sergeant  
11 Oels, what next happened?  
12 A Oels, the police officer, not the  
13 sergeant, came. Yurkovic and Sergeant Oels were  
14 talking. I saw him like, you know, shaking his  
15 head, looked like they were discussing something.  
16 In the interim, I had asked them -- I was in  
17 deep pain -- if he would help me out because I'm  
18 bleeding.  
19 Q Who did you ask?  
20 A I don't remember which officer it was.  
21 Q One of the these two though, Yurkovic  
22 or Oels?  
23 A One of the officers there.  
24 Q It was either these two though,  
25 Yurkovic or Oels, that you asked for medical

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1 attention?  
2 A Yes.  
3 Q And what did they say to you when you  
4 asked for it?  
5 A EMT came a little bit after that, so  
6 they sent me to the EMT.  
7 Q Did you hear one of theme calling for  
8 an EMT?  
9 A I don't recall. All I knew --  
10 Q How long after you asked for the  
11 medical attention did the EMT arrive?  
12 A I'd say it was probably a good ten  
13 minutes.  
14 Q Okay. And what did the EMT do?  
15 A She came. She started to wash me  
16 like, you know, look at me with like that peroxide  
17 and stuff like that; and then she said, "You look  
18 like you're seriously hurt. We should take you to  
19 the hospital."  
20 While she was cleaning my -- was that after?  
21 At some point, again I don't recall if the EMT was  
22 there first or Sergeant Oels had approached me  
23 first, but he came up to me saying, "You're in big  
24 trouble. You're going to jail." My response to  
25 him was, "For what?" because, again, I'm arrested,

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1 I don't know why I'm in there for. He said, "You  
2 tried taking their gun."  
3 He said something else to me, and then my  
4 response was -- to him was, "Sergeant, all due  
5 respect, you heard their side of the story. Aren't  
6 you going to listen to me?"  
7 At that point he said something to the  
8 effect of "Shut the fuck up. I'm not going to  
9 believe you over my men."  
10 I responded to him again, "This is like a  
11 Mafia here," and they all pretty much shook their  
12 head and said, "Yeah."  
13 The EMT was also cleaning me -- would you  
14 like me to continue or stop?  
15 Q Keep going.  
16 A The EMT at that point was cleaning me  
17 up. She had mentioned that, you know, "I believe  
18 you have to go to the hospital," this and that; and  
19 I said, "Go tell them. Tell the sergeant."  
20 She went and said something to him. He came  
21 running over or walking over to me, but -- you  
22 know, seemed a little aggravated and said something  
23 to the effect, "Don't waste time. You're going to  
24 jail no matter what. Be a man. Don't be a pussy.  
25 You're going to jail means you're going to jail."

1 My response with him was, "I'm dying," you  
2 know, "I'm dying" -- not literally dying, but I  
3 felt -- my whole body is aching me. I'm bleeding.  
4 I'm achy and also in shock.  
5 At that point, his response was -- I don't  
6 know if the EMT said something to him, but back and  
7 forth -- his response was, "If you want to go, I'm  
8 going to double your bail, but stop delaying; and  
9 we're going to go baby-sit you anyway, so you might  
10 as well go to jail," and I said, "Sergeant, I'm  
11 dying, I need to go."  
12 Q You would agree that the statement of  
13 "I'm dying" was a gross exaggeration, wouldn't you?  
14 A Yes, sir.  
15 Q Were you trying to impress upon him  
16 that you really wanted to go to the hospital?  
17 A Exactly. At that point --  
18 Q Anything else in this story that you  
19 grossly exaggerated other than that statement?  
20 A No, sir. That's what I said to him,  
21 "dying," the word "dying."  
22 Q And that's the only thing in this  
23 story from the time that Yurkovic came up that you  
24 have exaggerated?  
25 A Correct, sir.

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1 MR. KOBIN: Objection to the form.  
2 A At that point he walked away, came  
3 back, I don't know, a little bit after that and  
4 said, "Fine. Let's go, and we're taking you.  
5 We're going to baby-sit you," so.  
6 Q And then was that same EMT taking you  
7 to the hospital or was there another ambulance  
8 called?  
9 A Same car, same ambulance.  
10 Q Do you recall whether Officer Oels  
11 rode in the ambulance with you?  
12 A Yes, sir.  
13 Q And he was the only officer in the  
14 ambulance with you?  
15 A Yes, me and Oels.  
16 Q And did you know that there was a  
17 patrol car following?  
18 A I don't recall.  
19 Q All you know is once you got there --  
20 A Sergeant Oels was --  
21 Q -- Yurkovic was in the area and  
22 Sergeant Oels was there, correct?  
23 A Correct.  
24 Q And then all this stuff happened with  
25 Sammy?

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1 A And we went inside the hospital. They  
2 snuck me in the back door, took me to the room and  
3 so forth.

4 Q How was your conduct in the hospital?  
5 Did you give any of the nurses a hard time?

6 A No.

7 Q Did you give any of the doctors a hard  
8 time?

9 A No.

10 MR. CONNELL: It's a good time to  
11 break.

12 (A diagram drawn by Bassem Kandil is  
13 received and marked P-4 for identification by  
14 the reporter.)

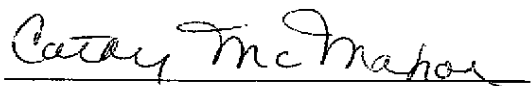
15 (Whereupon the deposition is  
16 adjourned.)  
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1 C E R T I F I C A T E

2  
3 I, CATHY MC MAHON, a Certified Court  
4 Reporter and Notary Public of the State of New  
5 Jersey {Certificate No. XI01128}, certify that  
6 the foregoing is a true and accurate  
7 transcript of the deposition of BASSEM KANDIL,  
8 who was first duly sworn by me at the place  
9 and on the date hereinbefore set forth.

10 I further certify that I am neither  
11 attorney nor counsel for, nor related to or  
12 employed by, any of the parties to the action  
13 in which this deposition was taken and  
14 further that I am not a relative or employee  
15 of any attorney or counsel employed in this  
16 case, nor am I financially interested in the  
17 action.  
18

19   
20  
21 A NOTARY PUBLIC OF THE STATE OF NEW JERSEY  
22  
23  
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